

WALTER SCHIVO

IBLA 81-65

Decided February 26, 1981

Appeal from decision of the California State Office, Bureau of Land Management, declaring a placer mining claim abandoned and void. CA MC 73527.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location for such claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Walter Schivo, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Walter Schivo appeals from the October 8, 1980, decision of the California State Office, Bureau of Land Management (BLM), which declared the Esperia placer mining claim, CA MC 73527, abandoned and void because a copy of the location notice and map of the claim was not filed with BLM on or before October 22, 1979, as required by the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulations set forth at 43 CFR 3833.1-2(a). Schivo submitted a copy of the location notice October 1, 1980, on which copy the date of location was shown as September 25, 1963.

In his statement of reasons on appeal appellant asserts that he has, on a yearly basis, filed proof of labor with the Nevada County, California, recorders office.

[1] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location notice with BLM and to provide certain ancillary information. Section 314, FLPMA, 43 U.S.C. § 1744 (1976). The pertinent regulations are 43 CFR 3833.1-2 and 3833.2-1. Recordation is effected only by filing in the proper BLM office a copy of the official record of the notice or certificate of location filed under state law, 43 CFR 3833.1-2(a), and 3833.1-2(d). Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. Edwin Forsberg, 47 IBLA 235 (1980); Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119 (1979); section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976). This Board has no authority to waive the statutory and regulatory requirements.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

C. Randall Grant, Jr.
Acting Administrative Judge

